



David B. Cohen  
Mayor

# CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Michael J. Kruse, Director

Telephone  
(617)-796-1120  
Telefax  
(617) 796-1086  
TDD/TTY  
(617) 796-1089

## CONSERVATION COMMISSION

### MEETING MINUTES

November 19, 2009

Beginning at 7:30 p.m.

City Hall, Rm 209

**Meeting opened approximately 7:33 p.m.**

**MEMBERS PRESENT:** I. Wallach, Chair, S. Lunin, Vice-chair, R. Matthews, J. Hepburn; D. Green, J. Sender

**MEMBERS ABSENT:** N. Richardson, D. Dickson

**MEMBERS OF THE PUBLIC:** See attached sign-in sheet

**CSX Vegetation Management Plan RDA** – ROW spraying of herbicides in riverfront and buffer to bank of the Charles River, in bordering vegetated wetlands, and possibly floodzone, and in an area proximal to a public drinking water supply.

**Report:** Following discussion with Stephen Herzog of AMEC (representing CSX), it is clear that railways are exempt for consideration of floodzone when spraying for vegetation management. Mr. Herzog says CSX still has not been able to schedule a site visit, and requests the CC issue a negative Determination without one. If the CC does not wish to do this, he asks to continue to the December meeting (Dec. 17<sup>th</sup>).

**Meeting:** The Commission declined to sign the Determination and will wait for the Planner to do a site visit.

**MA Highway representative has hearing in Waltham at 7:00 pm and asks to be placed later on schedule.**

**Rte 9 Resurfacing – RDA (prior RDA expired) – MA Hwy.** Previous RDA for same work expires in Dec. '09.

**Report:** A site visit by the Environmental Planner and Special Projects Engineer from the City found that recommendations for installation of erosion and sediment control near Paul Brook that the contractor agreed to during site visit had not been carried out.

**Meeting:** Moved to #8 on the agenda. Andrea Norton, Environmental Analyst arrived and noted that the erosion and sediment control near Paul Brook has now been installed correctly. **Motion by R. Matthews to approve a negative determination for the re-paving (effectively continuing the prior DOA). Second by S. Lunin. Vote: All approved. Motion passed.**

**34 Farwell Street – Violation** – House, storage sheds and garage in riverfront area with no permits from ISD, no Order of Conditions or Negative DOA.

**Report:** Complaint followed by Assessor's check found new house and storage sheds since 2000/2001 with no permits. Entire lot is in riverfront and mostly within 100 ft buffer to bank and house and sheds are within about 30 ft of the water and partly on DCR property. Garage on property may be older, but also does not have OOC or negative DOA from CC – do not know when built, but it was after 1982 when owner (same) filed with CC for large house addition. No garage and much less paving shown on site plan for 1982 filing. OOC recorded and extended once, but extension was not recorded, and the addition was never built. However, plan provides basis for what has been added since then. Have issued Violation letter and asked the owner to appear. The house is a pre-fab sitting on cinder-block; sewer hooked up to main house. House, sidewalk to house, and storage sheds on flat area near top of slope to water. I do not believe the Commission would have permitted the additional building and storage sheds, and they should be removed. Garage was not permitted by Conservation, and substantial amount of pavement added. After-the-fact filing, removal of some paving, and mitigation is recommended.

**Meeting:** Mr. Angelo Paolini, owner was present. He said he had purchased the pre-fabricated house and moved it onto the lot about 1994. However, aerial maps show it was not present on the property until about 1999 or 2000. The entire lot

**Conservation Commission**

1000 Commonwealth Avenue, Newton, Massachusetts 02459

Email: [aphelps@newtonma.gov](mailto:aphelps@newtonma.gov)

[www.ci.newton.ma.us](http://www.ci.newton.ma.us)



David B. Cohen  
Mayor

# CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Michael J. Kruse, Director

Telephone  
(617)-796-1120  
Telefax  
(617) 796-1086  
TDD/TTY  
(617) 796-1089

is in the riverfront protection area. Following discussion, the Commission directed that the pre-fabricated house and storage sheds be removed from the lot by March 24<sup>th</sup>, and that the owner may file “after-the-fact” for the garage and paving. The owner should re-appear at the March 24<sup>th</sup> meeting.

**54 Marla Cir., 44 Marla Cir., & 47 Grace Rd. – RDA** for plantings in the 200 ft riverfront, the 100 ft buffer to bank, and partially in flood zone.

**Report:** Area borders Sawmill Brook, running between Marla Circle and Grace Road and just outside of Sawmill Brook Conservation Area. There is a MWRA sewer easement along the brook here, and (I think) a City of Newton drainage easement, and there is a chain-link fence on either side of the brook. Owners propose to plant native vegetation that will help protect the interests under the Act. Recommend negative determination.

**Meeting:** Jane Shoplick, Landscape Architect, was present with owner Craig Halajian of 54 Marla Circle, and Stavroula Fotopoulos of 44 Marla Circle, and they described the project. **Motion by S. Lunin to issue a negative determination on the work. Second by D. Green. Vote: All in favor. Motion passed.**

**134 Vine St., RDA** – for plantings and alteration of vegetation in the 100 ft buffer to bordering vegetated wetland.

**Report:** Owner demolishing and re-building. Site plan shows house is out of the buffer zone but owner wants to landscape on the hill behind the house, and a bordering vegetated wetland lies at the bottom of the hill. Planting plans not yet received and not in packet.

**Meeting:** Owner Joe Cunningham was present and brought a planting plan. Planner needs time to review, so owner agreed to continue to December 17, 2009.

**24 Warren St. – Utility Line easement** – An OOC was issued allowing the applicant to remove utility poles and place electric & telephone lines underground on owner’s property (or) in existing easement. Applicant proposes new easement that follows ‘paper road’ and path for Elgin Street.

**Report:** Planner requested opinion from Law Department regarding granting easement over conservation area. CC does not have authority to grant this easement, but would be required to approve it.

**Meeting:** Planner reported that, in order to grant this easement, the Law Department believes both Parks and Recreation and Conservation would have to approve it, the land would have to be declared surplus, the mayor and the BOA would have to approve and the state legislature must approve. It might take two years or more, even if all parties are in favor.

**Charles River Lower Falls Bridge (P40)– NOI** -Bridge conversion to pedestrian use & path construction –DCR proposes to convert rail bed/trestle bridge over the Charles to pedestrian use and construct ~ 300 ft of stone dust pathway, ~200 ft of which will be in riverfront.

**Report:** NOI submitted as a limited project (see 10.53(3)), part of DCR’s “Rails to trails” program. “...the issuing authority may issue an Order of Conditions and impose such conditions as will contribute to the interests identified in M.G.L. c. 131, § 40, permitting the following limited projects... In the exercise of this discretion, the issuing authority shall consider the magnitude of the alteration and the significance of the project site to the interests identified in M.G.L. c. 131, § 40, **the availability of reasonable alternatives** to the proposed activity, the extent to which adverse impacts are minimized, and the extent to which mitigation measures, including replication or restoration, are provided to contribute to the protection of the interests identified ...” No alternatives analysis has been provided, but one has been requested. Mitigation in the form of erosion and sediment control during and after construction (reduction in run-off rate) is offered. Planner requested consideration of more ‘biological’ control for control of run-off, instead of rip-rap. Planner also considers the proposed arrangement of haybale and silt fence to be reversed – silt fence should be on the wetland side of the haybale/strawbale (haybales or mulch-filled silt soxx preferable to avoid introduction of weed seeds). This should be considered redevelopment under 10.58(5). The site was previously altered by presence of a raised rail bed, although the site now has ~mature trees.

**Meeting:** In the absence of DCR (applicant) personnel, who have been delayed at the Wellesley Conservation Commission meeting, the CC meeting is adjourned 8:15 – 8:30. Approximately 8:31, meeting resumed.

## Conservation Commission

1000 Commonwealth Avenue, Newton, Massachusetts 02459

Email: [aphelps@newtonma.gov](mailto:aphelps@newtonma.gov)

[www.ci.newton.ma.us](http://www.ci.newton.ma.us)

**Violations --Updates:**

**35 Kingswood Road** – alteration of bank of Charles – restoration area planted with 20 new lowbush blueberry bushes. Will re-check spring of 2009;  
**15 Harwich Rd** –Violation –Have asked DEP to assist. In a recent e-mail exchange, DEP analyst informed me she has not had time to pursue this violation;

**Certificates of Compliance**

**229 Winchester** – As-built and certification letter received.

**Meeting: Motion by D. Green to issue Certificate of Compliance with on-going conditions. Second by S. Lunin.**

**Vote: All in favor. Motion passed.**

**214 Concord Street** - As-built and certification letter received. Some changes, but increase in work area partially offset by removal of walkway at side of house.

**Meeting:** The Commission asked that the owner come in to next meeting discuss changes made.

**Announcements & General Business:**

**Management Plan update** - Dan Green – next meeting is scheduled for December 7<sup>th</sup> at City Hall.

**Open Space Plan** – considerations and member to work on committee and with Conservators?

**October 22, 2009 Meeting Minutes** for approval

**Meeting:** Anne asked for clarification on motion for 46 Farwell Street. Motion by D. Green, second by S. Lunin. I. Wallach says it does not matter who makes the motion but members should be identified when they vote. **Motion by S. Lunin to approve minutes as amended. Second by D. Green. Vote: All in favor. Motion passed.**

**Crystal Lake Path** – Work completed; working on signage.

**Other**

**62 Brierfield Road** – OOC issued to demo house and re-build. Abutter concerned about her foundation if blasting needed. Owner said not planning basement, but she now is building one and abutters are upset. Minutes say owner stated she is not building basement, but no condition in minutes. My take is that since OOC does not prevent (and no real grounds to deny) owner can build basement.

**Meeting:** The Commission agrees there is nothing that can be done.

**Newton Commonwealth Golf Course CR** – Law Dept. is pursuing trespass, but wants CC to certify the condition (boundaries, integrity of description) of the property. CC does NOT approve the wording of the CR, which will be held by the Newton Conservators. I was given DVD late today but do not have a printout. Does CC want to see the printout or is my receipt of plan and pictures sufficient for you to sign???

**Meeting:** Jane Sender said she took the video and Anne reported that the Law Department is anxious to get the signatures so this can get recorded. The Commission agreed to sign the Certification regarding the property boundaries and condition of the property.

**Outstanding issues – discussion** (not discussed)

**Performance Bonds (?) – in light of last MACC newsletter article**

**Non-criminal ticketing** – update — Q: Does the Commission wish to ticket under the Watershed/Flood Zone only?

Meeting adjourned approximately 8:40 p.m.

Respectfully submitted,

Anne Phelps, Sr. Environmental Planner



David B. Cohen  
Mayor

# CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Michael J. Kruse, Director

Telephone  
(617)-796-1120  
Telefax  
(617) 796-1086  
TDD/TTY  
(617) 796-1089

## Conservation Commission

1000 Commonwealth Avenue, Newton, Massachusetts 02459

Email: [aphelps@newtonma.gov](mailto:aphelps@newtonma.gov)

[www.ci.newton.ma.us](http://www.ci.newton.ma.us)